

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Arnaldo Badillo,

Case No. 21-cv-1631 (PAM/DTS)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

B. Birkholz, et al.,

Respondents.

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In an order dated August 16, 2021, this Court directed petitioner Arnaldo Badillo to either pay the \$5.00 filing fee for this matter or apply for *in forma pauperis* (IFP) status, consistent with the instructions Badillo had earlier received from the Clerk of Court. See Docket No. 5. Badillo was given 14 days to pay the filing fee or apply for IFP status, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

That deadline has now passed, and Badillo has not complied with the Court's August 16 order. In fact, Badillo has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, this Court RECOMMENDS that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: September 13, 2021

s/David T. Schultz  
DAVID T. SCHULTZ  
U.S. Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).